

Exhibit A

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: NATIONAL FOOTBALL	:	No. 2:12-md-02323-AB
LEAGUE PLAYERS' CONCUSSION	:	MDL No. 2323
INJURY LITIGATION	:	
	:	
THIS DOCUMENT RELATES TO:	:	
ALL ACTIONS	:	
	:	

CO-LEAD CLASS COUNSEL'S REPLY MEMORANDUM OF LAW
IN FURTHER SUPPORT OF MOTION TO STRIKE
THE LATE-FILED OBJECTION OF
CURTIS L. ANDERSON

I. INTRODUCTION

Co-Lead Counsel submit this reply memorandum of law in further support of their motion to strike the late-filed objection of Curtis Anderson and in reply to the Anderson's Response to Co-Lead Class Counsel's Motion To Strike. *See* ECF No. 6248 (Anderson Late-Filed Objection); ECF No. 6253 (Co-Lead Class Counsel's Motion To Strike) and ECF No. 6255 (Anderson's Response). As discussed below, Mr. Anderson's Response incorrectly states that Co-Lead Class Counsel have acted in a procedurally improper manner in filing their motion to strike. Moreover, because Mr. Anderson provides no coherent reason for his late filing, Co-Lead Class Counsel's motion to strike the objection should be granted.

II. ARGUMENT

Mr. Anderson contends that Co-Lead Class Counsel's "first mistake is to request inappropriate relief." ECF No. 6255 at 2. This argument is quickly dispatched. In *in re Diet Drugs*, then Chief-Judge Bechtle granted a motion to strike objections to the settlement

agreement in that litigation. *See In re Diet Drugs*, MDL No. 1203, Pretrial Order # 1435, Sept. 21, 2000.¹ Co-Lead Class Counsel's procedural route is correct, and the Court has the discretion to grant this motion.

In his opposition to the motion to strike, Mr. Anderson's given reason for being late – that the requirements for registering a class member's objections are “burdensome” – rings false.² The procedure is straightforward, and he offers no explanation as to why the other objectors – some *pro se* – were able to formulate timely objections. His excuse for the late filing is the objection itself – that he “only recently learned that the class notice does not accurately summarize the actual settlement” (ECF No. 6248 at 1) – is similarly unpersuasive. The notice and the Settlement Agreement have been available to class members for months, and have been the subject of extensive media coverage and analysis.

Mr. Anderson argues that Co-Lead Class Counsel have a “desire to silence one of the very players they are duty bound to represent.” ECF No. 6255 at 1. This argument is specious. Co-Lead Class Counsel have not moved to strike a single timely-filed objection. Co-Lead Class Counsel merely request that the Court enforce the scheduling order in this case which has been in

¹ The following documents from *In re Diet Drugs (Phentermine/Fenfluramine/Dexfenfluramine) Products Liability Litigation*, MDL No. 1203, are attached as Exhibits to this brief:

Exhibit 1: American Home Products Corporations' Motion to Strike Objections of Rachel Mares, Jane Scuteri, and Leonard Corbin, dated Aug. 28, 2000.

Exhibit 2: Class Counsel's Joinder in Motion to Strike Objections of Mares, Scuteri, and Corbin, dated Aug. 29, 2000.

Exhibit 3: Pretrial Order # 1435, dated Sept. 21, 2000, granting Motion to Strike Objections of Mares, Scuteri, and Corbin.

² Mr. Anderson contends that his only “‘crime’ was missing an arbitrary deadline.” ECF No. 6255 at 2. Setting aside the fact that every other objector filed his/her objection on time, this argument suggests that the Court's deadlines are unimportant and can be missed without consequence, and that a settlement involving a class estimated at 20,000 members can be effectively administered without a set schedule.

effect for months, to ensure the timely and efficient administration of the settlement process. *See* ECF No. 6084 (July 7, 2014 Preliminary Approval Order).

Mr. Anderson contends that “an objector’s ability to raise awareness of a settlement’s negative consequences is critical to fulfilling the courts’ mandate.” *Id.* But Mr. Anderson, through his counsel, brings absolutely nothing new to the group of already filed objections. In fact, as Plaintiffs note in their motion, Mr. Anderson’s objection is completely derivative of earlier filings. ECF No. 6253-1.

III. CONCLUSION

In conclusion, Co-Lead Class Counsel submit that their motion to strike this late-filed objection should be granted.

Dated: October 27, 2014

Respectfully submitted,
/s/ Christopher A. Seeger
Christopher A. Seeger
SEEGER WEISS LLP
77 Water Street
New York, NY 10005
Phone: (212) 584-0700
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Co-Lead Class Counsel

Sol Weiss
ANAPOL SCHWARTZ
1710 Spruce Street
Philadelphia, PA 19103
Phone: (215) 735-1130
Fax: (215) 735-2024
sweiss@anapolschwartz.com

Co-Lead Class Counsel

CERTIFICATE OF SERVICE

I, Christopher A. Seeger, hereby certify that on the 27th day of October 2014, I electronically transmitted a true and correct copy of the foregoing document to the Clerk of the Court using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to all attorneys of record who are ECF registrants.

/s/Christopher A. Seeger
Christopher A. Seeger

Exhibit 1

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

)
IN RE DIET DRUGS)
(PHENTERMINE/FENFLURAMINE/) MDL No. 1203
DEXFENFLURAMINE) PRODUCTS)
LIABILITY LITIGATION)
)
)
)
)
)
SHEILA BROWN, et al. v. AMERICAN) CIVIL ACTION No. 99-20593
HOME PRODUCTS CORPORATION)
)
)

**AMERICAN HOME PRODUCTS CORPORATION'S
MOTION TO STRIKE OBJECTIONS OF
RACHEL MARES, JANE SCUTERI, AND LEONARD CORBIN**

Defendant American Home Products Corporation ("AHP") hereby moves to strike objections to the Nationwide Class Action Settlement Agreement ("the Settlement Agreement") filed by Rachel Mares, Jane Scuteri, and Leonard Corbin.¹ Each of these purported objectors lacks standing to object because he or she opted out of the Settlement Agreement. Accordingly, this Court should strike their objections.

I. FACTUAL BACKGROUND

On November 19, 1999, AHP and the plaintiffs in the above-captioned action entered into the Settlement Agreement. Pursuant to Pretrial Order 997, the parties to the Settlement Agreement distributed to class members a notice packet, which included

¹ Rachel Mares is represented by Jerry Alexander of Alexander & Associates. Jane Scuteri and Leonard Corbin are represented by Paul J. Napoli of Napoli, Kaiser & Bern.

FILED
AUG 28 2001
SAC 99-20593
By Jt E. K. L. Clerk
Dep. Clerk

certain registration forms. *See Settlement Agreement*, Exs. 6, 9, 21, 22. The notice packet informed class members of their right to opt out of the Settlement Agreement by executing an “Orange Form” by March 30, 2000. *See id.* at Exs. 12 & 13.

Ms. Mares, Ms. Scuteri, and Mr. Corbin each timely executed an Orange Form. *See* Attachments A, B, and C. Each of these individuals subsequently filed an objection to the Settlement Agreement. *See* Attachments D and E.

II. LEGAL ARGUMENT

A class member who opts out of a settlement agreement does not have standing to object to that settlement. *See Gilbert v. Prudential-Bache Sec.*, Civ. A. No. 83-1513, 1987 WL 6884, at *1 (E.D. Pa. Feb. 18, 1987) (noting that objector “plainly lacks standing to object, since he opted out of the class”);² *see also* PTO 1283 (denying motion of Joseph Petito and Terry Stubbs to intervene for the limited purpose of objecting because “[m]ovants have opted out of the settlement in this action and thus have no standing to assert an objection.”).

² *See also In re Synthroid Marketing Litig.*, No. 97 C 6017, 2000 WL 1100403, at *1 (N.D. Ill. Aug. 7, 2000) (parties “that opted out lack standing to object”); *Martens v. Smith Barney, Inc.*, 190 F.R.D. 134, 138 (S.D.N.Y. 1999) (class members who opted out of the settlement were not permitted to raise objections at fairness hearing); *Turner v. Beneficial Corp.*, 67 F. Supp.2d 1325, 1329-30 (M.D. Ala. 1999) (“Class members [have] an incentive to voice their objections,” while those who “are outside the definition of the class or have opted out, are on a different footing.”); *In re Financial Partners Class Action Litig.*, No. 82 C 5910, 1987 WL 20150, at *1 (N.D. Ill. Nov. 19, 1987) (“[T]he Ryans lack standing to object to the present [attorneys’ fees] petition because they opted out of the class and pursued an independent course of action”); *In re Warner Communications Sec. Litig.*, 618 F. Supp. 735, 753 (S.D.N.Y. 1985) (objectors who opted out of settlement “no longer have standing to challenge the settlement and their objection is dismissed.”).

Ms. Mares, Ms. Scuteri, and Mr. Corbin executed and filed Orange Forms, thereby exercising their right to opt out of the Settlement and pursue private litigation against AHP. *See* Settlement Agreement at § IV.D.2.b & Ex. 6. Accordingly, they have no standing to object to the Settlement Agreement. *See Gilbert*, 1987 WL 6884, at *1; PTO 1283.

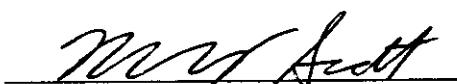
III. CONCLUSION

For the foregoing reasons, this Court should grant AHP's motion to strike the objections filed by Rachel Mares, Jane Scuteri, and Leonard Corbin.

Respectfully submitted,

Peter L. Zimroth
ARNOLD & PORTER
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New York, New York 10022
(212) 715-1000

Daniel S. Pariser
ARNOLD & PORTER
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Washington, D.C. 20004
(202) 942-5000


Michael T. Scott
REED SMITH SHAW & McCCLAY LLP
2500 One Liberty Place
1650 Market Street
Philadelphia, PA 19103
(215) 851-8100

Attorneys for Defendant
American Home Products Corporation

Dated: August 28, 2000

AUG 25 2009 13:31 ED

T0 12025425599 P.02

P. 82

ORANGE FORM #1

Diet Drug Settlement With American Home Products Corporation

This ORANGE FORM may be used by any person who wants to exercise initial Opt-Out Rights and be excluded from the Settlement with American Home Products Corporation. If you want to choose the accelerated implementation option ("AIO") do not complete this form. Complete the PINK FORM instead.

If you use this form to exercise your initial Opt-Out Right, this form must be completed in its entirety and returned to the Claims Administrators and to American Home Products Corporation by the time provided in the Official Court Notice of Settlement.

- 1. State your name, address and telephone number**

2. If you have a lawyer in connection with the Diet Drug Litigation, list his/her name, office address, telephone number, fax number, and E-mail address, if any:

Alexander & Associates, P.C.
(Law Firm Name)
Mr. Jerry Alexander
(Attorney's Name)
619 North 90th Street
(Street Address)
Omaha Nebraska (City) (State) (Zip Code) 68114

**Remove label from mailing envelope
and affix here.**

Please return this form to:
Diet Drug Settlement
P.O. Box 7939
Philadelphia, PA 19101

AUG 25 2000 13:31 FR

TO 12029425959

P.03

402, 390 - 9339

(Daytime Phone Number & Area Code)

402, 390 - 9383

(Fax Number)

Jerry@alexanderlegal.com

(E-mail Address: If any)

3. If you have a lawsuit presently filed against American Home Products Corporation arising from the use of the diet drugs Pondimin® and/or Redux®, list the caption (title) of the lawsuit, the court it is filed in, and the docket or civil action number.

(Caption/Title of lawsuit)

(Docket/Civil Action Number of lawsuit)

4. (Answering this question is optional.) If you believe that you have an adverse medical condition related to the use of Pondimin® and/or Redux®, please briefly describe your condition below:

5. CERTIFICATION: I have had an opportunity to read the Official Court Notice transmitted to Class Members in connection with the nationwide Class Action Settlement with American Home Products Corporation and to consult with physicians and attorneys concerning the terms and conditions of the proposed Class Action Settlement. HAVING HAD THAT OPPORTUNITY, I HEREBY KNOWINGLY AND PERMANENTLY RELINQUISH, WAIVE AND GIVE UP ALL OF THE RIGHTS WHICH I WOULD OTHERWISE HAVE HAD AS A CLASS MEMBER UNDER THE SETTLEMENT AGREEMENT WITH AMERICAN HOME PRODUCTS CORPORATION AND I AFFIRMATIVELY AND FOREVER OPT-OUT OF THE CLASS WITH FULL KNOWLEDGE OF THE LEGAL, FACTUAL AND MEDICAL CONSEQUENCES OF MY ACTIONS.

3/17/00

(Date) Michael T. Scott

(Signature)

Return this form to both the Claims Administrators and American Home Products Corporation at the following addresses:

Claims Administrators
Diet Drug Settlement
P.O. Box 7939
Philadelphia, PA 19101

American Home Products Corporation
c/o Michael T. Scott, Esq.
MDL Liaison Counsel for AHP
Reed, Smith, Shaw & McClay
One Liberty Plaza
1650 Market Street
Philadelphia, PA 19103

AUG 25 2000 13:32 FR

TO 12029425999

P.05

DIET DRUG SETTLEMENT WITH AMERICAN HOME PRODUCTS CORPORATION

ORANGE FORM

THIS FORM MAY BE USED BY ANY PERSON WHO WANTS TO EXERCISE INITIAL OPT-OUT RIGHTS AND BE EXCLUDED FROM THE SETTLEMENT WITH AMERICAN HOME PRODUCTS CORPORATION.

IF YOU WANT TO CHOOSE THE ACCELERATED IMPLEMENTATION OPTION ("AIO"), DO NOT COMPLETE THIS FORM. COMPLETE THE PINK FORM INSTEAD.

IF YOU USE THIS FORM TO EXERCISE YOUR INITIAL OPT-OUT RIGHT, THIS FORM MUST BE COMPLETED IN ITS ENTIRETY AND RETURNED TO THE CLAIMS ADMINISTRATOR(S) AND TO AMERICAN HOME PRODUCTS CORPORATION BY THE TIME PROVIDED IN THE OFFICIAL COURT NOTICE OF SETTLEMENT.

1. State your name, address and telephone number:

NAME JANE SeufertiADDRESS 4005 Brooklyn AvenueCITY SeafordSTATE NYZIP CODE 11783

DAYTIME TELEPHONE NUMBER (WITH AREA CODE)

EVENING TELEPHONE NUMBER (WITH AREA CODE)

2. If you have a lawyer in connection with the Diet Drug Litigation, list his/her name, office address, telephone number, fax number, an E-mail address, if any:

NAME NAPOLI KAISER & BERN, LLPOFFICE ADDRESS 115 Broadway - 12th FloorCITY New YorkSTATE New York

10006

ZIP CODE

(212) 267-3700

TELEPHONE NUMBER (WITH AREA CODE)

(212) 216-9435

FAX NUMBER

E-MAIL ADDRESS pnapoli@napolikaizer.com

3. If you have a lawsuit presently filed against American Home Products Corporation arising from the use of the diet drugs Pondimin and/or Redux, list the caption (title) of the lawsuit and the docket or civil action number:

[CAPTION/TITLE OF THE LAWSUIT]

Docket/Civil Action Number of Lawsuit

AUG 25 2000 13:32 FR

TO 12029425999

P.07

4. (Answering this question is optional.) If you believe that you have an adverse medical condition related to the use of Pondimin and/or Redux, please briefly describe your condition below.

N/A

5. CERTIFICATION: I have had an opportunity to read the Official Court Notice Settlement with American Home Products Corporation and to consult with physicians and attorneys concerning the terms and conditions of the proposed Class Action Settlement. HAVING HAD THAT OPPORTUNITY, I HEREBY KNOWINGLY AND PERMANENTLY RELINQUISH, WAIVE AND GIVE UP ALL RIGHTS WHICH I WOULD OTHERWISE HAVE HAD AS A CLASS MEMBER UNDER THE SETTLEMENT AGREEMENT WITH AMERICAN HOME PRODUCTS CORPORATION AND I FULL KNOWLEDGE OF THE LEGAL, FACTUAL AND MEDICAL CONSEQUENCES OF MY ACTIONS.

3-27-00

DATE

Jean M. Sciarra
SIGNATURE

RETURN THIS FORM TO BOTH THE CLAIMS ADMINISTRATOR(S) AND AMERICAN HOME PRODUCTS CORPORATION AT THE FOLLOWING ADDRESSES:

SETTLEMENT ADMINISTRATOR(S):

AMERICAN HOME PRODUCTS CORPORATION:

AUG 25 2000 13:32 FR

TD 12029425999 P.08

DIET DRUG SETTLEMENT WITH AMERICAN HOME PRODUCTS CORPORATION**ORANGE FORM**

**THIS FORM MAY BE USED BY ANY PERSON WHO WANTS TO
EXERCISE INITIAL OPT-OUT RIGHTS AND BE EXCLUDED FROM
THE SETTLEMENT WITH AMERICAN HOME PRODUCTS CORPORATION.**

**IF YOU WANT TO CHOOSE
THE ACCELERATED IMPLEMENTATION OPTION ("AIO"),
DO NOT COMPLETE THIS FORM.
COMPLETE THE PINK FORM INSTEAD:**

**IF YOU USE THIS FORM TO EXERCISE YOUR INITIAL OPT-OUT RIGHT,
THIS FORM MUST BE COMPLETED IN ITS ENTIRETY AND RETURNED
TO THE CLAIMS ADMINISTRATOR(S) AND
TO AMERICAN HOME PRODUCTS CORPORATION BY
THE TIME PROVIDED IN THE OFFICIAL COURT NOTICE OF SETTLEMENT.**

1. State your name, address and telephone number:

Leonard Corbin
NAME

5C Lakeview Manor (Is this old address?) 1700 NEWCOMBITION RD - 5-C

ADDRESS

Milville NJ 08332
CITY STATE ZIP CODE

(609) 785-1300 (856) AREA CODE CHARGE
DAYTIME TELEPHONE NUMBER (WITH AREA CODE)

(609) 825-9388 (856)
EVENING TELEPHONE NUMBER (WITH AREA CODE)

08/28/00 09:49 FAX 202 942 5209

ARNOLD & PORTER

003/004

AUG 25 2000 13:33 FR

TO 12229425999 P.09

ORANGE FORM

Page 1

2. If you have a lawyer in connection with the Diet Drug Litigation, list his/her name, office address, telephone number, fax number, an E-mail address, if any:

NAPOLI KAISER & BERN, LLP

NAME

115 Broadway - 12th Floor

OFFICE ADDRESS

New YorkNew York10006

CITY

STATE

ZIP CODE

(212) 267-3700

TELEPHONE NUMBER (WITH AREA CODE)

(212) 216-9435

FAX NUMBER

pnapoli@napolikaiser.com

E-MAIL ADDRESS

3. If you have a lawsuit presently filed against American Home Products Corporation arising from the use of the diet drugs Pondimin and/or Redux, list the caption (title) of the lawsuit and the docket or civil action number:

Leonard Corbin et al v. AHP, et al
(CAPTION/TITLE OF THE LAWSUIT)NY Kings Supreme 31283/98
(DOCKET/CIVIL ACTION NUMBER OF LAWSUIT)

4. (Answering this question is optional.) If you believe that you have an adverse medical condition related to the use of Pondimin and/or Redux, please briefly describe your condition below.

N/A

AUG 25 2000 13:53 FR

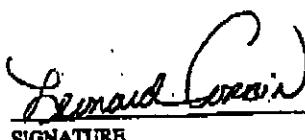
TO 12029425999 P.18

Page 2

5. CERTIFICATION: I have had an opportunity to read the Official Court Notice transmitted to Class Members in connection with the nationwide Class Action Settlement with American Home Products Corporation and to consult with physicians and attorneys concerning the terms and conditions of the proposed Class Action Settlement. HAVING HAD THAT OPPORTUNITY, I HEREBY KNOWINGLY AND PERMANENTLY RELINQUISH, WAIVE AND GIVE UP ALL RIGHTS WHICH I WOULD OTHERWISE HAVE HAD AS A CLASS MEMBER UNDER THE SETTLEMENT AGREEMENT WITH AMERICAN HOME PRODUCTS CORPORATION AND I AFFIRMATIVELY AND FOREVER OPT OUT OF THE CLASS WITH FULL KNOWLEDGE OF THE LEGAL, FACTUAL AND MEDICAL CONSEQUENCES OF MY ACTIONS.

Aug 17, 1999

DATE



SIGNATURE

RETURN THIS FORM TO BOTH THE CLAIMS ADMINISTRATOR(S) AND AMERICAN HOME PRODUCTS CORPORATION AT THE FOLLOWING ADDRESSES:

SETTLEMENT ADMINISTRATOR(S):

AMERICAN HOME PRODUCTS CORPORATION:

COPY

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

FILED
IN RE: DIET DRUGS (PHENTERMINE/
FENFLURAMINE/DEXFENFLURAMINE
PRODUCTS LIABILITY LITIGATION)

MAR 31 2000
MICHAEL E. KURTZ, Clerk
MDL DOCKET NO. 1203

**MOTION IN OPPOSITION TO THE PROPOSED
NATIONAL SETTLEMENT ON NEUROTOXICITY CLAIMS**

COMES NOW Patricia Dimari (MDL Civil Action No.: 00-20100) and Rachel Mares, on behalf of themselves and others similarly situated, and for the reasons set forth below, object to the National Settlement as being unfairly prejudicial to their respective rights to bring claims for Toxic Encephalopathy (brain damage) secondary to fenfluramine and/or dexfenfluramine use.

1. The March 30, 2000 deadline for initial Opt-Out of the Proposed National Settlement in MDL 1203, may leave thousands, if not millions, who have suffered Toxic Encephalopathy (brain damage) secondary to use of fenfluramine (Pondimin) and/or dexfenfluramine (Redux) without recourse.

By the terms of the Proposed National Settlement, individuals who fail to exercise their initial opt-out right are automatically members of the class action and subject to the Proposed Settlement. Pursuant to the Proposed Settlement, once an individual is subject to its terms, those individuals can only bring a claim against American Home Products or the other settling Defendants for heart damage. According to the Proposed Settlement, "Settled Claims" shall mean any and all claims, including assigned claims, whether known or unknown, asserted or unasserted, regardless of the legal theory, existing now or arising in the future by any or all members of the Settlement Class...". Accordingly, arguably all neurotoxicity claims will be waived if an individual does not exercise initial Opt-Out.

2. As drafted, the Proposed Settlement precludes individuals who do not opt-out and who have suffered brain damage caused by fenfluramine or dexfenfluramine from bringing claims for compensation, even though the nature and extent of such claims are unknown to such individuals at the present time.

3. Moreover, despite offering no compensation or other consideration for individuals who have suffered Toxic Encephalopathy, the National Settlement seeks to vitiate the right to bring such a claim in the future.

REC'D

APR - 6 2001

4. Patricia Dimari is a 36 year old individual who ingested fenfluramine for a period in excess of 5 months. Thereafter, Patricia Dimari was diagnosed with severe mitral regurgitation and heart failure. Pursuant to the terms of the settlement, Mrs. Dimari is entitled to approximately \$580,759.00 as a result of her Matrix level heart condition. Due to Mrs. Dimari's present financial condition, she would like to settle her heart damage claim for the grid amount. Unfortunately, however, Mrs. Dimari also suffers from permanent brain damage secondary to her fenfluramine use. Attached hereto and marked as Exhibit "1" is an Affidavit of her treating physician supporting the findings of Toxic Encephalopathy secondary to fenfluramine use.

5. Because the terms of the National Settlement, as drafted, seeks to preclude Mrs. Dimari and individuals similarly situated from bringing a claim for Toxic Encephalopathy if they do not Opt-Out of the National Settlement, the National Settlement, as drafted, is unfair and should not be approved by this Court.

6. Rachel Mares is a 34 year old who used fenfluramine for approximately 3 months. On February 15, 2000 she was diagnosed with Toxic Encephalopathy secondary to fenfluramine exposure. Although Mrs. Mares is not at present "FDA positive", as defined within the National Settlement, she has suffered from symptoms of shortness of breath and would like to be a class member in the event she develops a compensable claim in the future. Unfortunately, however, she must Opt-Out of the National Settlement covering heart damage so that she can pursue her brain damage claim. Attached hereto and marked as Exhibit "2" is an Affidavit of her treating physician supporting the findings of Toxic Encephalopathy secondary to fenfluramine use.

7. Because the terms of the National Settlement, as drafted, seeks to preclude Mrs. Mares and individuals similarly situated from bringing a claim for Toxic Encephalopathy if they do not Opt-Out of the National Settlement, the National Settlement, as drafted, is unfair and should not be approved by this Court.

WHEREFORE, Plaintiffs pray, on behalf of themselves and others similarly situated, that the National Settlement not be approved or that this Court enter an Order finding that claims for injuries other than heart damage, such as Toxic Encephalopathy, are not covered by the terms of the National Settlement. Plaintiffs further ask this Court for an opportunity to be heard on this motion and to present evidence on or before the Fairness Hearing scheduled for May 1, 2000 - May 5, 2000.

Respectfully Submitted,

BY:

JERRY ALEXANDER #20819
Alexander & Associates, P.C.
619 North 90th Street
Omaha, Nebraska 68114
(402) 390-9339
Attorney for Plaintiffs

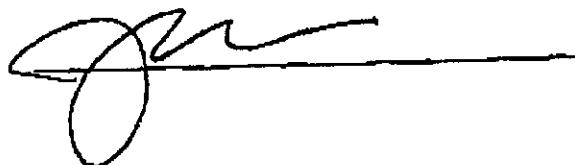
CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 28th day of March, 2000, a true and correct copy of the above and foregoing document was sent via Certified Mail, Return Receipt Requested to the following individual(s):

Clerk of the U.S. District Court CM, RRR # Z 559 099 952
United States Courthouse
601 Market Street
Philadelphia, PA 19106

Claims Administrators CM, RRR # Z 559 099 953
Dier Drug Settlement
P.O. Box 7939
Philadelphia, PA 19101

Mr. Michael T. Scott, Esq. CM, RRR # Z 559 099 954
MDL Liaison Counsel for AHP
Reed Smith Shaw & McClay
One Liberty Place, 1650 Market Street
Philadelphia, PA 19103



IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: DIET DRUGS (PHENTERMINE/
FENFLURAMINE/DEXFENFLURAMINE
PRODUCTS LIABILITY LITIGATION)

MDL DOCKET NO. 1203

AFFIDAVIT OF DR. RICHARD M. FLEMING

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

Dr. Richard M. Fleming, being first duly sworn on oath, states as follows:

1. That I am a Board-Certified Internist, licensed to practice medicine in the States of Texas, Iowa and Nebraska.
2. That I am a Board-Certified Nuclear Cardiologist and I have been trained and certified in the use of positron emission tomography (PET).
3. That my practice involves weight management, the implications thereof, and preventive cardiology.
4. Patricia Dimari is a patient who was seen in my office for complications related to her heart. During my examination Mrs. Dimari provided a history of symptoms consistent with neurological abnormalities. In light of her symptoms, I ordered a nuclear brain scan (PET) which revealed evidence of toxic encephalopathy which I believe to a reasonable degree of medical certainty is secondary to Mrs. Dimari's use of fenfluramine and/or dexfenfluramine.
5. That I am basing all of my opinions contained herein on the medical records and history provided by Mrs. Dimari.

EXHIBIT 1

DATED this 28th day of March, 2000.

FURTHER AFFIANT SAYETH NAUGHT.

[Signature]
Richard M. Fleming, M.D., Affiant
The Fleming Heart & Health Institute
9290 W. Dodge Road, Suite 204
Omaha, Nebraska 68114
(402) 343-0800

Subscribed and sworn to before me this 28 day of March, 2000.



Kelly L. Souder
NOTARY PUBLIC

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE DIET DRUGS (Phentermine/
Fenfluramine/Dexfenfluramine)
PRODUCTS LIABILITY LITIGATION)
MDL DOCKET NO. 1203

THIS DOCUMENT RELATES TO:)

SHEILA BROWN, SHARON GADDIE,
JOSE GADDIE, VIVIAN NAUGLE,
QUENTIN LAYER, JOAN S. LAYER,
JOBY JACKSON-REID and HARVEY
E. REID, Individually and
all others similarly situated,)

4/4/CC

Plaintiffs,)

CIVIL ACTION NO. 99-20593

v.)

AMERICAN HOME PRODUCTS
CORPORATION,)

CLASS ACTION

Defendant.)

**OBJECTIONS OF JANE SCUTERI, ET AL.,
AND REQUEST TO APPEAR THROUGH
COUNSEL AT THE FAIRNESS HEARING**

PAUL J. NAPOLI
MARC JAY BERN
NAPOLI, KAISER & BERN, LLP
115 Broadway, 12th Floor
New York, NY 10006
(212) 267-3700
Attorneys for Plaintiffs Jane Scuteri, et al.

Of Counsel:

KENNETH J. CHESEBRO
1600 Massachusetts Avenue
Cambridge, MA 02138
(617) 661-4423

March 30, 2000

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of American Home Products Corporation's Motion to Strike Objections of Rachel Mares, Jane Scuteri, and Leonard Corbin was served on this 28th day of August, 2000, upon the following, as noted:

VIA FACSIMILE

Arnold Levin, Esquire
Levin, Fishbein, Sedran & Berman
510 Walnut Street, Suite 500
Philadelphia, PA 19106

Jerry Alexander, Esquire
Alexander & Associates, P.C.
Historic Inns of Court Building
619 North 90th Street
Omaha, Nebraska 68114

Edward Blizzard, Esquire
Blizzard & McCarthy, L.L.P.
440 Louisiana, Suite 1710
Houston, Texas 77002

Paul J. Napoli, Esquire
Napoli, Kaiser & Bern, LLP
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New York, NY 10006

VIA FEDERAL EXPRESS

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Media, Pennsylvania 19063

Edward Blizzard, Esquire
Blizzard & McCarthy, L.L.P.
440 Louisiana, Suite 1710
Houston, Texas 77002

Fred S. Longer, Esquire
Arnold Levin, Esquire
Levin, Fishbein, Sedran & Berman
510 Walnut Street, Suite 500
Philadelphia, Pa 19106

Gerald J. Valentini, Esquire
1800 J.F. Kennedy Boulevard, Suite 1300
Philadelphia, PA 19103

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Michael T. Scott

Exhibit 2

04/2020
8/29/00

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE DIET DRUGS (Phentermine/
Fenfluramine/Dexfenfluramine)
PRODUCTS LIABILITY LITIGATION : MDL Docket No. 1203

THIS DOCUMENT RELATES TO: :
SHEILA BROWN, et al., :
Plaintiffs, : CIVIL ACTION NO. 99-20593
v. :
AMERICAN HOME PRODUCTS CORP., :
Defendant. :

**CLASS COUNSEL'S JOINDER IN AMERICAN HOME
PRODUCTS CORPORATION'S MOTION TO STRIKE OBJECTIONS
OF RACHEL MARES, JANE SCUTERI AND LEONARD CORBIN**

Class Counsel hereby joins in American Home Products Corporation's (AHP's) Motion to Strike Objections of Rachel Mares, Jane Scuteri and Leonard Corbin.

Each of these purported objectors opted out of the settlement and as such lack standing. Objector Rachel Mares is represented by Alexander & Associates, and Jane Scuteri and Leonard Corbin are represented by Napoli, Kaiser & Bern. Neither of objectors' counsel formally notified the Court of their clients opting out of this settlement and thus their lack of standing to pursue their objections. Ms. Mares opted out on March 17, 2000 and filed her objection on March 28, 2000. Jane Scuteri opted out on March 27, 2000 and Leonard Corbin opted out on December 17, 1999. Ms. Scuteri and Mr. Corbin filed their objections on March 30, 2000.

Each of these objectors lack standing at the time that their objections were filed.

For the above reasons and those specifically set forth in American Home Product's Motion, these objections should be stricken.

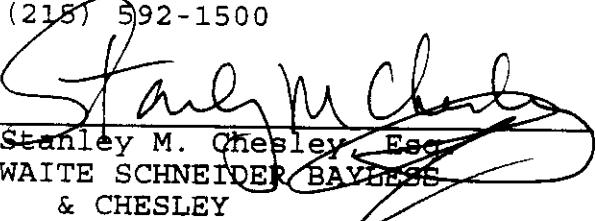
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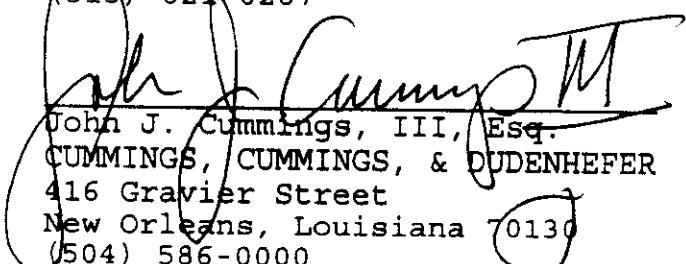
Respectfully submitted,

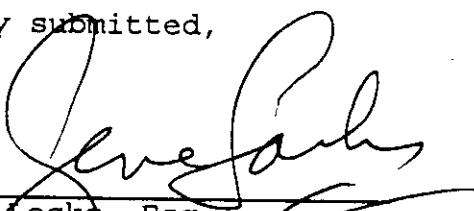
Class Counsel

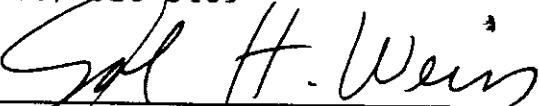

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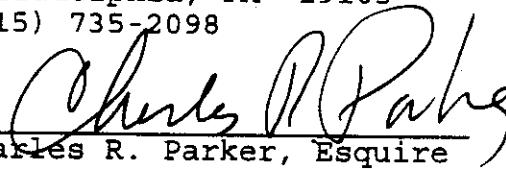

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Class Counsel's Joinder in American Home Products Corporation's Motion to Strike Objections of Rachel Mares, Jane Scuteri and Leonard Corbin was served on the following counsel on this 29th day of August, 2000 via United States First Class Mail, postage prepaid upon the following:

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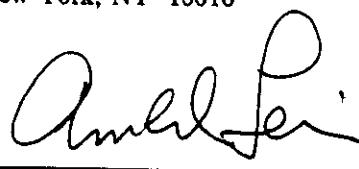

ARNOLD LEVIN

Exhibit 3

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: DIET DRUGS (PHENTERMINE/
FENFLURAMINE/DEXFENFLURAMINE
PRODUCTS LIABILITY LITIGATION) :
: MDL DOCKET NO. 1203

PRETRIAL ORDER

1435

AND NOW, this 21st day of September, 2000, at a hearing held on September 20, 2000, the court ruled as follows:

1. Class Counsel's Motion to Impose Bond for Costs on Appeal Noticed By Attorney Lawrence W. Schonbrun in Brown, Civ. No. 99-20593 (Document #201908) is GRANTED.
2. Defendant's Motion to Strike Objections of Rachel Mares, Jane Scuteri, and Leonard Corbin in Brown, Civ. No. 99-20593 (Document #202024) is GRANTED.
3. Defendant's Motion to Strike Objection of John J. Seaman in Brown, Civ. No. 99-20593 (Document #202020) is GRANTED.
4. Motion to Allow Filing of Petition in Intervention of Becnel Attorneys for the Purpose of Establishing a Claim to Entitlement of Common Benefit Attorneys' Fees and Expenses in Brown, Civ. No. 99-20593 (Document #201982) and Motion to Allow Filing of Petition in Intervention of Becnel Attorneys and Motion to Allow the Filing of the Becnel Attorneys' First Supplemental Petition in Intervention (Document #202058) are DENIED.
5. Motion of Daniel E. Becnel, Jr. to Intervene in Brown, Civ. No. 99-20593 (Document #201620) is DENIED without prejudice.
6. Defendant's Motion to Dismiss the Plaintiff's Amended Complaint in Glincher, Civ. No. 99-20131 (Document #202018) is GRANTED.
7. Plaintiff's Motion to Strike Order Entered in Ohio Dismissing Count I of

Plaintiff's Complaint in Schnell, Civ. No. 00-20750 (Document #202011) is GRANTED. Count 1 of the complaint is reinstated.

8. Defendant's Motion to Enforce PTO 21 in Hazen, Civ. No. 00-20415 (Document #202026) is WITHDRAWN.

9. Plaintiff's Motion for Reconsideration of Defendant's Motion to Dismiss Interpleader Actions as Moot in Columbia Casualty Co., Civ. No. 99-20037 (Document #202019) is DENIED without prejudice.

10. Plaintiffs' New Hampshire Insurance Co., et al. motion for Reargument of Defendant Interneuron Pharmaceuticals, Inc.'s Motion to Dismiss the Interpleader Actions and to Vacate Paragraph Six of Pretrial Order #1405 (Document #202029) are DENIED.

11. Defendants' Motion to Dismiss or For a More Definite Statement in Metheney, Civ. No. 00-20427 (Document #201940) is GRANTED.

12. The next status conference will be held on October 25, 2000 at 10:00 a.m. in Courtroom 17-B, 17th Floor, United States Courthouse, 601 Market Street, Philadelphia, PA 19106.

ATTEST:

or BY THE COURT

BY: _____
Deputy Clerk



Judge

Civ 12 (9/83)